

### **III. REMARKS**

Claims 1-26 are pending in this application. By this amendment, claims 1-3, 10, 16, 17 and 22 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 2-5 and 11-12 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 1-7, 10-12 and 16-26 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Hayes, Jr. *et al.* (U.S. Patent Pub. No. 2003/0195811 A1), hereafter “Hayes.” Claims 8-9 and 14-15 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Hayes in view of case law. Claim 13 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hayes in view of Warmack (U.S. Patent Pub. No. 2002/0161701 A1), hereafter “Warmack.”

#### **A. REJECTION OF CLAIM 15 UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

The Office has asserted that claims 2-5 and 11-12 are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended claims 2-3 to clarify the using and receiving steps. With respect to claims 4-5 and 11-12, Applicants respectfully submit that the claims are clear as written. This is because, *inter alia*, the claimed invention includes, for example, instances in which the message is retrieved from the sender to the message center and then retrieved from the message center.

To this extent, Applicants assert that the amendments and arguments further clarify the invention. Accordingly, Applicants request that the rejection be withdrawn.

#### **B. REJECTION OF CLAIMS UNDER 35 U.S.C. §102(e) AND §103(a)**

With regard to the 35 U.S.C. §102(e) rejection over Hayes, Applicants assert that Hayes references does not teach each and every feature of the claimed invention. For example, with respect to newly amended independent claims 1, 10, 17 and 22, Applicants submit that Hayes fails to teach receipt of a message from a third party sender that is not involved in the commercial transaction. In contrast, Hayes deals with messages from companies with whom transactions are occurring. To this extent, Hayes does not teach that its messages are from third party senders that are not involved in the commercial transaction. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

Applicants further object to the Office's use of unsubstantiated factual references. For example, Applicants disagree with the Office's assertion that it would be obvious that an alert code would be appended or prepended to the transaction code. Rather, the messages discussed in Hayes are textual messages and, as such, appending or prepending such a message to other information, would only serve to confuse the meaning of the message.

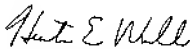
Further, Applicants disagree with the Office's assertion that it would be obvious to one of ordinary skill in the art that the message distribution center as disclosed by Hayes could be used to dispatch messages of all varieties. Rather, Hayes only deals with messages connected to the transaction. Accordingly, Applicants respectfully request that the Office support the findings with references that show these features or withdraw the rejections.

## VI. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



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